

**Amendments to the Drawings**

Attached is a marked-up drawing for Figure 8. Also attached is a Replacement Sheet for Figure 8.

Attachment: Replacement Sheet of Figure 8

Annotated Drawing showing changes made to Figure 8

### **REMARKS**

The following remarks are submitted in response to the non-final Office Action mailed August 7, 2006, setting a three-month shortened statutory period for response ending November 7, 2006. With this Amendment, claims 20, 34, and 38-40 have been amended. Claims 20-40 remain pending in the Application. Reconsideration, examination and allowance of all pending claims are respectfully requested.

#### **Restriction Requirement**

The Examiner restricted the invention into three groups; namely, Group I drawn to a filter device, classified in class 606, subclass 200 (claims 20-26 and 34-40); Group II drawn to a method for making a filtering device, classified in class 606, subclass 198 (claims 27-32); and Group III drawn to a method for using a filtering device, classified in class 606, subclass 194 (claim 33). According to the Examiner, restriction is proper since Group I and II are related as process of making and product made, Group I and III are related as process and apparatus for its practice, and Group II and III are related as subcombinations disclosed as usable together in a single combination.

In an interview with the Examiner on July 28, 2006, a provisional election was made without traverse to prosecute the invention of Group I directed to claims 20-26 and 34-40. Applicant hereby affirms the provisional election directed to the invention of Group I (claims 20-26 and 34-40).

#### **Objections to Drawings**

In paragraph 11 of the Office Action, the Examiner objected to the drawings under 37 CFR § 1.84(p)(5) stating that they do not include certain reference signs contained in the description. In particular, the Examiner states that, with respect to Figure 6, reference number "102" should be labeled "112" and reference number "100" should be labeled "110". In addition, with respect to Figure 8, the Examiner states that reference number "112" should be labeled "110" or some other reference numeral since "110" is used to designate the retrieval catheter (110) in Figure 6. According to the Examiner, corrected drawing sheets are required.

In response, Applicant has amended the specification changing each instance of reference number "110" used to denote the retrieval catheter to reference number "100", which is

consistent with the usage of that number in the drawings and elsewhere in the specification. In addition, Applicant has also amended the specification changing each instance of reference number “112” used to denote the retrieval catheter lumen to reference number “102”, which is consistent with the usage of that number in the drawings and elsewhere in the specification.

With respect to the objection of Figure 8, Applicant has replaced reference number “102” (i.e. the force transfer member) in that figure with reference number “110”. Support for this amendment can be found, for example, on page 13, line 15 of the Application. A “Replacement Sheet” reflecting this change is attached hereto.

Applicant asserts that these amendments to the specification and to Figure 8 overcome the Examiner’s objections to the drawings.

#### **Objections to the Specification**

In paragraph 12 of the Office Action, the Examiner objected to the disclosure stating that the “force transfer member 110” mentioned on page 13, line 15 of the Application is not shown in any of the figures.

With this Amendment, Applicant has amended Figure 8 by replacing reference number “102” with reference number “110”, which as discussed above, is supported by page 13, line 15 of the Application. In addition, Applicant has further amended page 13, line 15 of the specification by adding the phrase “(see Figure 8)” after the words “force transfer member 110” to more clearly indicate that the force transfer member is depicted in Figure 8.

Applicant asserts that these amendments to the specification and to Figure 8 overcome the Examiner’s objections to the specification.

#### **Double Patenting Rejection**

In paragraphs 13-15 of the Office Action, the Examiner rejected claim 20 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,217,600. According to the Examiner, although the conflicting claims are not identical, they are not patentably distinct from each other because they encompass the same invention.

In response to this rejection, Applicant has submitted a Terminal Disclaimer overcoming the Examiner's rejection of claim 20 in view of U.S. Patent No. 6,217,600. Applicant does not concede the correctness of the rejection.

### **35 U.S.C. § 102 Rejections**

In paragraph 17 of the Office Action, the Examiner rejected claims 20-23, 25-26, 34-36, and 38-40 under 35 U.S.C. § 102(a) as being anticipated by *Ravenscroft* (U.S. Patent No. 6,007,558).

With respect to the rejection of claims 20-23, 25-26, and 34-36, Applicant has amended independent claims 20 and 34 to now each recite that the plurality of struts are fixedly attached to the body member. Claim 20, for example, now recites:

20. A filtering device, comprising:  
a body member;  
a plurality of struts *fixedly attached* to the body member and extending therefrom; and  
wherein one or more of the struts include a weakened region.

(emphasis added). Claim 34 similarly recites this element. Antecedent support for these amendments can be found, for example, on page 7, lines 6-8 of the Application.

In contrast to amended claims 20 and 34, the *Ravenscroft* reference cited by the Examiner does not appear to disclose or suggest a plurality of struts fixedly attached to a body member and extending therefrom. In *Ravenscroft*, the wires (32) equipped with hooks (28) that form the first filter basket section (14) of the filter (10) extend through the tubular legs (26) and into the interior of the hub (12). *Ravenscroft* makes clear that these wires (32) are not fixedly attached to the hub (12), but are instead connected to a ring (34) on the end of a pull rod (36) movably disposed within the interior of the hub (12). See col. 6, lines 13-15. This configuration can be seen, for example, in Figure 4 of *Ravenscroft*, which shows the wires (32) coupled to the ring (34) and terminating within the interior of the hub (12). While the shorter wires (18) used to form the second filter basket section (16) may be attached to the hub (12), these wires do not appear to include a weakened region or a reduced cross-sectional area, as further recited in claims 20 and 34, respectively. Thus, since *Ravenscroft* does not appear to disclose or suggest each and every element, Applicant submits that claims 20 and 34 are not anticipated by that

reference. In addition, for at least these reasons, Applicant submits that claims 21-23, 25-26, and 35-36 which depend from claims 20 and 34 are also not anticipated by *Ravenscroft*.

Turning next to the rejection of claims 38-40, Applicant has amended each of these claims to now recite that each arm includes a joined end fixedly attached to the apex. Claim 38, for example, now recites:

38. A filtering device, comprising:  
a conically-shaped filtering basket including an apex and a plurality of  
arms extending from the apex, ***each arm including a joined end fixedly attached  
to the apex***; and  
wherein the arms include a weakened region.

(emphasis added). Antecedent support for these amendments can be found, for example, on page 7, lines 6-8 of the Application.

In contrast to claims 38-40, Applicant asserts that the *Ravenscroft* reference does not disclose or suggest arms having a weakened region or reduced cross-sectional area region and each including a joined end fixedly attached to the apex. Instead, and as discussed above, the wires equipped with hooks in *Ravenscroft* appear to be connected to a ring on the end of a pull rod movably disposed within the interior of the hub. Accordingly, Applicant submits that amended claims 38-40 are also not anticipated by the *Ravenscroft* reference.

### **35 U.S.C. § 103 Rejections**

In paragraph 19 of the Office Action, the Examiner rejected claim 24 under 35 U.S.C. § 103(a) as being unpatentable over *Ravenscroft* (U.S. Patent No. 6,007,558) in view of *El-Nounou et al.* (U.S. Patent No. 5,242,462). In paragraph 20 of the Office Action, the Examiner rejected claim 37 under 35 U.S.C. § 103(a) as being unpatentable over *Ravenscroft* (U.S. Patent No. 6,007,558) in view of *Abrisco et al.* (U.S. Patent No. 6,007,557).

For at least the reasons provided above, Applicant submits that claims 24 and 37 are also not unpatentable over *Ravenscroft* in view of *El-Nounou et al.* or *Abrisco et al.* As discussed previously, amended claims 20 and 34 now each recite a plurality of struts fixedly attached to a body member and extending therefrom. In contrast, the wires equipped with hooks in *Ravenscroft* are connected to a ring on the end of a pull rod movably disposed within the interior of a hub, and thus are not fixedly attached to the hub. The *El-Nounou et al.* and *Abrisco et al.* references similarly fail to disclose or suggest this claimed element. Thus, since the cited

references do not disclose each and every element of claims 20 and 34, Applicant asserts that dependent claims 24 and 37, which depend respectively from claims 20 and 34, are not obvious under 35 U.S.C. §103(a).

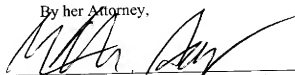
Reexamination and reconsideration of the claims of the present Application is respectfully requested. It is submitted that the claims are currently in condition for allowance. Issuance of a Notice of Allowance in due course is anticipated. If a telephone conference might be of assistance, please contact the undersigned attorney at 612.677.9050.

Respectfully submitted,

Kristian Di Matteo

By her Attorney,

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